

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:
03-27

2. STATE
Minnesota

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
July 1, 2003

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
42 CFR §440.167

7. FEDERAL BUDGET IMPACT:

a. FFY '03 \$0

b. FFY '04 \$0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Att. 3.1-A, pp. 26-26b, 78-78n

Att. 3.1-B, pp. 25-25b, 77-77n

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):
same

10. SUBJECT OF AMENDMENT:

Public Health Nursing and Personal Care Assistant Services

11. GOVERNOR'S REVIEW (Check One):

☒ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ OTHER, AS SPECIFIED:

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:
// Mary B. Kennedy - signature //

16. RETURN TO:
Stephanie Schwartz
Minnesota Department of Human Services
Federal Relations Unit
444 Lafayette Road No.
St. Paul, MN 55155-3852

13. TYPED NAME:
Mary B. Kennedy

14. TITLE:
Medicaid Director

15. DATE SUBMITTED:
August 6, 2003

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 8/6/03

18. DATE APPROVED: 4/22/04

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

July 1, 2003

20. SIGNATURE OF REGIONAL OFFICIAL:

Cheryl A. Harris

21. TYPED NAME: Cheryl A. Harris

22. TITLE: Associate Regional Administrator
Division of Medicaid and Children's Health

23. REMARKS:

RECEIVED

AUG 06 2003

DMCH - MI/MN/WI

STATE: MINNESOTA
Effective: July 1, 2003
TN: 03-27
Approved: APR 29 2004
Supersedes: 01-13

ATTACHMENT 3.1-A
Page 26

6.d. Other practitioners' services. (continued)

B. **Public health nursing services** are limited to:

- 1) Nursing assessment and diagnostic testing;
- 2) Health promotion and counseling;
- 3) Nursing treatment;
- 4) Immunization;
- 5) Administration of injectable medications;
- 6) Medication management and the direct observation of the intake of drugs prescribed to treat tuberculosis;
- 7) Tuberculosis case management, which means:
 - a) assessing an individual's need for medical services to treat tuberculosis;
 - b) developing a care plan that addresses the needs identified in subitem a);
 - c) assisting the individual in accessing medical services identified in the care plan; and
 - d) monitoring the individual's compliance with the care plan to ensure completion of tuberculosis therapy; and
- 8) Personal care assistant assessments, reassessments, and service updates. Assessments, reassessments, and service updates are conducted by county public health nurses or certified public health nurses under contract with the county.

Such assessments must be conducted initially, in person, for persons who have never had a public health nurse assessment. The initial assessment must include:

- a) documentation of health status;
- b) determination of need;
- c) identification of appropriate services;
- d) service plan development, including, if supervision by a qualified professional is requested, assisting the recipient or responsible party to identify the most appropriate qualified professional;

STATE: MINNESOTA
Effective: July 1, 2003
TN: 03-27
Approved: APR 22 2004
Supersedes: 01-13

ATTACHMENT 3.1-A
Page 26a

6.d. Other practitioners' services. (continued)

B. **Public health nursing services.**

- e) coordination of services;
- f) referrals and follow-up to appropriate payers and community resources;
- g) completion of required reports;
- h) if a need is determined, recommendation and receipt of service authorization; and
- i) recipient education.

Reassessments are conducted, in person, at least annually or when there is a significant change in the recipient's condition and need for services. The reassessment includes:

- a) a review of initial baseline data;
- b) an evaluation of service effectiveness;
- c) a redetermination of need for service;
- d) a modification of the service plan, if necessary, and appropriate referrals;
- e) an update of the initial forms;
- f) if a need is redetermined, recommendation and receipt of service authorization; and
- g) ongoing recipient education.

Service updates are conducted in lieu of an annual face-to-face reassessment when a recipient's condition or need for personal care assistant services has not changed substantially, or between required assessments when the recipient or provider requests a temporary increase in services until an in-person review is conducted. The service update includes all the elements listed in items a) through g), above, but does not require an in-person visit.

~~If flexible use of personal care assistant hours is used, as part of the assessment, reassessment, and service plan development or modification, the recipient or responsible party must work with the public health nurse to develop a written month-to-month plan of the projected use of personal care assistant services that is part of the service plan. This month-to-month plan must ensure that actual use of hours will be monitored and that the:~~

STATE: MINNESOTA

Effective: July 1, 2003

TN: 03-27

Approved: APR 22 2004

supersedes: 01-13

ATTACHMENT 3.1-A

Page 26b

6.d. Other practitioners' services. (continued)

B. **Public health nursing services.**

- a) ~~health and safety needs of the recipient will be met; and~~
- b) ~~total annual authorization will not be exceeded before the end date.~~

~~If the actual use of personal care assistant service varies significantly from the use projected in the service plan, the month-to-month plan must be promptly updated by the recipient or responsible party and the public health nurse.~~

Public health nurses who administer pediatric vaccines as noted in item 5.a., Physicians' services within the scope of their licensure must enroll in the Minnesota Vaccines for Children Program.

STATE: MINNESOTA

ATTACHMENT 3.1-A

Effective: July 1, 2003

Page 78

TN: 03-27

Approved: APR 22 2004

Supersedes: 02-20

26. Personal care assistant services.

Personal care assistant services are provided by personal care provider organizations or by use of the PCA Choice option.

A. Personal care provider organizations

Personal care services provider qualifications:

- Personal care assistants must be employees of or under contract with a personal care provider organization within the service area. If there are not two personal care provider organizations within the service area, the Department may waive this requirement. ~~If there is no personal care provider organization within the service area, the personal care assistant must be enrolled as a personal care assistant provider.~~
- If a recipient's diagnosis or condition changes, requiring a level of care beyond that which can be provided by a personal care provider, non-Medicare certified personal care providers must refer and document the referral of dual eligibles to Medicare providers (when Medicare is the appropriate payer).
- Effective July 1, 1996, personal care assistant means a person who:
 - a) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation;
 - b) is able to effectively communicate with the recipient and the personal care provider organization;
 - c) is able to and provides covered personal care assistant services according to the recipient's plan of care, responds appropriately to the recipient's needs, and reports changes in the recipient's conditions to the supervising

STATE: MINNESOTA
Effective: July 1, 2003
TN: 03-27
Approved: APR 22 2004
Supersedes: 02-20

ATTACHMENT 3.1-A
Page 78a

26. Personal care assistant services. (continued)

qualified professional or physician. For the purposes of this item, "qualified professional" means a registered nurse, ~~or~~ a mental health professional defined in item 6.d.A. of this attachment, or licensed social worker;

d) is not a consumer of personal care assistant services; and

e) is subject to criminal background checks and procedures specified in the state human services licensing act.

- Effective July 1, 1996, personal care provider organization means an entity enrolled to provide personal care assistant services under medical assistance that complies with the following:

a) owners who have a five percent interest or more, and managerial officials are subject to a background study. This applies to currently enrolled personal care provider organizations and those entities seeking to enroll as a personal care provider organization. Effective November 10, 1997, an organization is barred from enrollment if an owner or managerial official of the organization has been convicted of a crime specified in the state human services licensing act, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the reconsideration criteria specified in the state human services licensing act;

b) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provide proof thereof. The insurer must notify the Department of the cancellation or lapse of policy; and

c) the organization must maintain documentation of personal care assistant services as specified in rule, as well as evidence of compliance with personal care assistant training requirements.

STATE: MINNESOTA
Effective: July 1, 2003
TN: 03-27
Approved: APP 02 2004
Supersedes: 02-20

ATTACHMENT 3.1-A
Page 78b

26. Personal care assistant services. (continued)

B. PCA Choice option

Under this option, the recipient and qualified professional do not require professional delegation.

- The recipient or responsible party:
 - a) uses a PCA Choice provider, not a personal care provider organization. A PCA Choice provider assists the recipient to account for covered personal care assistant services. A PCA Choice provider is considered a joint employer of the qualified professional described in item A and the personal care assistant, and may not be related to the recipient, qualified professional, or personal care assistant. A PCA Choice provider or owner of the entity providing PCA Choice services must pass a criminal background check according to the state human services licensing act;
 - b) if a qualified professional is requested, uses a qualified professional for help in developing and revising a service plan to meet the recipient's needs, as assessed by the public health nurse;
 - c) supervises the personal care assistant if the recipient or responsible party does not want a qualified professional to supervise the personal care assistant;
 - d) if the recipient or responsible party wants a qualified professional to supervise the personal care assistant, verifies and documents the credentials of the qualified professional, and then recruits, hires and, if necessary, terminates the qualified professional;
 - e) recruits, hires and, if necessary, terminates the personal care assistant;

STATE: MINNESOTA
Effective: July 1, 2003
TN: 03-27
Approved: APR 22 2004
Supersedes: 02-20

ATTACHMENT 3.1-A
Page 78c

26. Personal care assistant services. (continued)

- f) with assistance from the qualified professional, orients trains the personal care assistant;
- g) with assistance as needed from the qualified professional or the recipient's physician, supervises and evaluates the personal care assistant;
- h) monitors and verifies in writing the number of hours worked by the qualified professional and the personal care assistant; and
- i) together with the PCA Choice provider, qualified professional, and personal care assistant, enters into a written agreement before services begin. The agreement must include:
 - 1) the duties of the recipient, PCA Choice provider, qualified professional, and personal care assistant;
 - 2) the salary and benefits for the qualified professional and personal care assistant;
 - 3) the administrative fee of the PCA Choice provider and services paid for with that fee, including background checks;
 - 4) procedures to respond to billing or payment complaints; and
 - 5) procedures for hiring and terminating the qualified professional and personal care assistant.

The PCA Choice provider:

- a) enrolls in medical assistance;
- b) requests and secures background checks on qualified professionals and personal care assistants according to the state human services licensing act;

STATE: MINNESOTA
Effective: July 1, 2003
TN: 03-27
Approved: APR 22 2004
Supersedes: 02-20

ATTACHMENT 3.1-A
Page 78d

26. Personal care assistant services. (continued)

d) bills for personal care assistant and qualified professional services;

e) pays the qualified professional and personal care assistant based on actual hours of services provided;

f) withholds and pays all applicable federal and state taxes;

g) makes the arrangements and pays unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

h) verifies and keeps records of hours worked by the qualified professional and personal care assistant; and

i) ensures arm's length transactions with the recipient and personal care assistant.

At a minimum, qualified professionals visit the recipient in the recipient's home at least once every year. Qualified professionals report to the appropriate authorities any suspected abuse, neglect, or financial exploitation of the recipient.

As part of the assessment and reassessment process in item 6.d.B. of this attachment, the following must be met to use, or continue to use, a PCA Choice provider:

a) the recipient must be able to direct the recipient's own care, or the responsible party for the recipient must be readily available to direct the care of the personal care assistant;

b) the recipient or responsible party must be knowledgeable of the health care needs of the recipient and be able to effectively communicate those needs;

c) effective August 1, 2002, the recipient who receives shared personal care assistant services (shared services) must use the same PCA Choice provider; and

STATE: MINNESOTA

Effective: July 1, 2003

TN: 03-27

Approved: APR 22 2004

Supersedes: 02-20

ATTACHMENT 3.1-A

Page 78e

26. Personal care assistant services. (continued)

- d) a service update cannot be used in lieu of an annual reassessment.

Authorization to use the PCA Choice option will be denied, revoked, or suspended if:

- a) the public health nurse or qualified professional determines that use of this option jeopardizes the recipient's health and safety;
- b) the parties do not comply with the written agreement; or
- c) the use of the option results in abusive or fraudulent billing.

The recipient or responsible party may appeal this decision. A denial, revocation or suspension will not affect the recipient's authorized level of personal care assistant services.

Amount, duration and scope of personal care assistant services:

- Department prior authorization is required for all personal care assistant services and supervision, if requested by the recipient or responsible party. Prior authorization is based on the physician's orders; the recipient's needs, diagnosis, and condition; an assessment of the recipient; primary payer coverage determination information as required; the service plan; and cost effectiveness when compared to other care options. The Department may authorize up to the following amounts of personal care assistant service:
 - a) up to 2 times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level;
 - b) up to 3 times the average number of direct care hours provided in nursing facilities for recipients with complex medical needs, or who are dependent in at least seven activities of daily living and need either physical assistance with eating or have a neurological diagnosis;